

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SAINT LOUIS DIVISION**

FILED

CYNTHIA VOGELBAUGH,

Plaintiff,

vs.

NIAGARA CREDIT SOLUTIONS INC.

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No.

SEP 26 2007

U. S. DISTRICT COURT,
E. DIST. OF MO.
ST. LOUIS

COMPLAINT

NOW COMES the Plaintiff, CYNTHIA VOGELBAUGH, by and through her attorneys, LARRY P. SMITH & ASSOCIATES, LTD., complaining against the Defendant, NIAGARA CREDIT SOLUTIONS INC., and alleging as follows:

PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereafter the "FDCPA"), 15 U.S.C. §1692, et seq.

JURISDICTION AND VENUE

2. Jurisdiction arises under the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq.

PARTIES

3. Plaintiff, CYNTHIA VOGELBAUGH ("Plaintiffs"), is an individuals as well as a who was at all relevant times residing in the State of Missouri.

4. At all relevant times herein, Defendant, NIAGARA CREDIT SOLUTIONS INC., ("Defendant") acted as a debt collector within the meaning of 15 U.S.C. §1692a(6) in that it held itself out to be a company collecting a debt allegedly owed to Commerce Bank.

5. Defendant is a corporation that has its principal place of business and its offices located in Williamsville, New York.

ALLEGATIONS

COUNT I -
VIOLATIONS OF THE FDCPA

6. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

7. On July 17, 2007, a representative of the Defendant who provided the name "Richard Carnes" called Plaintiff in an attempt to collect the aforesaid debt.

8. Plaintiff was not home at the time of the call, so Carnes left a voice mail recording to the Plaintiff wherein he told the Plaintiff that he was going to call Plaintiff's friends and family members until she called him back.

9. During that phone message, Defendant failed to advise that he was a debt collector and that any information he obtained would be used for that purpose.

10. Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. §1692 in one or more of the following ways:

a. Threatened to take action it does not intend to take or cannot legally take in violation of 15 U.S.C. §1692e(4) and (5); and

b. Failed to notify the debtor that he was a debt collector and that any information he obtained would be used for that purpose in violation of 15 U.S.C. §1692e(11)

11. As a result of Defendant's violations as aforesaid, Plaintiffs suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, CYNTHIA VOGELBAUGH, by and through her attorneys, respectfully pray for judgment as follows:

- a. All actual compensatory damages suffered;
- b. Statutory damages of \$1,000.00 for each Plaintiff;
- c. Plaintiff's attorneys' fees and costs;
- d. Any other relief deemed appropriate by this Honorable Court.

*****PLAINTIFF REQUESTS A TRIAL BY JURY *****

Respectfully Submitted,
CYNTHIA VOGELBAUGH

By: 

Larry P. Smith
Attorney for Plaintiff

LARRY P. SMITH & ASSOCIATES, LTD.
Attorneys for Plaintiff
205 N. Michigan Ave., 40th Floor
Chicago, Illinois 60601
(312) 222-9028
(312) 602-3911